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C O N F I D E N T I A L SECTION 01 OF 04 KATHMANDU 001285

SIPDIS

STATE FOR SA/INS
LONDON FOR POL - RIEDEL

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TAGS: [PGOV](#) [PREL](#) [NP](#) [GON](#)

SUBJECT: NEPAL: PROSPECTS FOR ELECTIONS CLOUDED BY
SECURITY, LOGISTICAL CONCERNS

REF: A. (A) KATHMANDU 1199

[1](#)B. (B) KATHMANDU 1146

[1](#)C. (C) KATHMANDU 1091

Classified By: DCM ROBERT K. BOGGS. REASON: 1.5(B,D).

SUMMARY

[1](#)1. (C) Despite Prime Minister Deuba's repeated assurances that the Government of Nepal will proceed with national elections on schedule, the Embassy finds increasing numbers of commentators who express significant concern that elections can be held as planned. Questions about the ability of the Royal Nepal Army (RNA) and the police to provide adequate security at the nation's 7,000 polling places--to say nothing of pre-election campaign activities--top the list of such concerns. Compounding the uncertainty is the lack of clear Constitutional guidelines in the event elections must be postponed, or cannot be held in all 75 districts. Many observers have suggested the King may use a vaguely-worded Constitutional provision granting him latitude to act in the event of such "difficulty" to appoint an interim government if elections are unable to take place on time. End summary.

ELECTIONS--FIVE MONTHS AND COUNTING

[1](#)2. (C) Although more than a month has passed since King Gyanendra dissolved Parliament and set national elections for November 13 (Ref C), serious planning to stage such elections still seems largely on hold for a variety of reasons, including the split within the Prime Minister's own Nepali Congress Party (Ref A); a pending Supreme Court decision on the constitutionality of the dissolution of Parliament (Ref B); the uncertainty of the security situation; a lack of clarity regarding emergency restrictions on campaign activities; and last but by no means least, the general proclivity towards procrastination across the Nepali polity. The Election Commission has yet to announce the findings of a redistricting committee, which is reallocating Parliamentary seats based on the 2001 census; to make public the budget needed to hold the elections; or to decide whether polling will be held on a single day or in consecutive phases throughout the kingdom. While there is some speculation that the Election Commission may be deferring action until the Supreme Court decision on whether to reinstate Parliament, there is also concern that planning the logistics of elections in a country suffering an insurgency nationwide may be proving too much for the Commission's limited resources and political clout. There is some concern that the Commission may be ceding much of its planning authority to the military, who will, perforce, undertake a greatly expanded role in providing security--and thus have much greater input in logistical discussions--than ever before.

SECURITY: BIGGEST CONCERN, GREATEST LIMITATION

[1](#)3. (C) Given the factors cited above, many observers--including many would-be participants--question whether elections can take place as scheduled. Concern about the ability of the Royal Nepal Army (RNA) and the police to provide adequate security at the nation's 7,000 polling places--to say nothing of pre-election campaign activities--is the most significant source of doubt. Even now, before campaigning has begun, security forces are stretched to capacity guarding sensitive infrastructure, district headquarters, and government buildings and VIPs in Kathmandu. Many assume the insurgents will attack candidates, intimidate voters, and capitalize on the diversion of security forces to launch raids on vital infrastructure. A June press release from Maoist leader Prachanda brands the elections as a false "drama" staged by the Palace and Army, and castigates the Communist Party of Nepal - United Marxist Leninist for announcing its intention to participate. More explicit warnings against participation

have been given to individual politicians in outlying districts. Even if, as has been often suggested, the election is conducted in separate phases, with polling taking place on different days in different areas of the country, any concentration of security forces in a particular geographic region could invite a Maoist attack in other, less protected areas, some observers fear. One former MP from the Terai, a region comparatively less affected by Maoist violence, suggested that conducting polling even in the relative safety of his constituency will present significant challenges, commenting, "It won't take much effort (for the Maoists) to disturb the elections." How to pay for the crippling cost of mobilizing the security needed--one source put the price tag at USD 23 million--for a country already facing severe budgetary problems is another cause for concern.

ROLE OF THE ARMY

14. (C) Members of Opposition political parties have also voiced concern about the expanded presence of the military--whom they perceive as sympathetic toward incumbent Prime Minister Sher Bahadur Deuba--at polling places this election. Some question if the Army leadership, who they believe influenced Deuba's move to extend the emergency and dissolve Parliament, can be counted on to maintain strict impartiality during the voting. During the previous election in 1994, Opposition Leader Madhav Kumar Nepal recalled, armed thugs kept his party representatives away from some of the polling places, making it impossible to monitor the voting procedures. (Note: International observers judged this election to be basically free and fair, but clearly some abuses were committed by a number of parties. End note.) With so many more guns in evidence at polling places, even if they are in the hands of the military, he said he fears the potential for such intimidation will increase.

PROSPECTS AND PARTICIPATION--THE VIEW FROM SIX PARTIES

15. (C) Given the degree of uncertainty surrounding the elections, politicians from most parties have yet to begin campaigning--or trying to construct coalitions--in earnest. The paralysis in the Nepali Congress Party, whose two rival factions are awaiting an Election Commission ruling on which has the right to use the Party name, symbol, and flag in the upcoming elections (Ref A), has helped keep the usual horse-trading and deal-making in temporary limbo. Discussions with representatives of six parties reveal that most (with the possible exception of the far-leftist United People's Front and National People's Front) are planning to participate in elections, while simultaneously expressing doubt that elections can be held in the current environment. Many Opposition party representatives have also pointed out that the emergency continues to place substantial restrictions on their ability to campaign, hold rallies, or give speeches.

GOVERNMENT ASSURANCES

16. (C) The Nepali Congress Party alone--that is to say, the Deuba faction of the split party--expresses confidence that elections will take place as planned. At a June 28 meeting with business leaders and diplomats (from the U.S., U.K., France, Germany, and India) at the Ambassador's residence, the PM asserted that conducting elections in all 75 districts will be "difficult, but not impossible." The election might take place in phases ("perhaps three-to-five phases; I don't know") to allow the concentration of security forces needed to provide adequate security in a given locality. He acknowledged security will be a problem in seven districts and some other constituencies in the Maoist heartland, but noted the Royal Nepal Army has enlisted 5,000 new soldiers, and the Armed Police Force 7,000 new recruits, who can help fulfill the additional manpower requirements during election time. He added that the Government plans to invite international observers to participate, possibly under UN auspices. To help defray the costs of holding the election, the Government has already decided to suspend "300-400" development projects. He realizes that suspension of these projects will be taken at some political cost, but sees no alternative to paying that price.

CONSTITUTIONAL QUESTIONS

17. (U) Nepal's Constitution offers little guidance about procedures in the all-too-likely event that elections may not take place nationwide by the scheduled date. The Constitution stipulates a five-year term for the Lower House

of Parliament, "unless dissolved earlier." If the King dissolves Parliament, he must "specify a date, to be within six months (of the date of dissolution), for new elections." The Constitution does not/not state that elections must actually be held within six months, and offers no prescription for remedial action if elections are not actually held within the specified time.

18. (SBU) The Constitution also makes no provision for partial elections (other than a by-election to fill a seat vacated by the death, resignation or dismissal of a member) or elections during a state of emergency (except to say that Members' terms may be extended for one year during a state of emergency). One legal expert speculated that as long as polling could be held to elect at least 25 percent of the Lower House's 205 Members--the quorum needed for voting purposes--the elections could be deemed valid and the House could meet. Elections for additional seats could then later be held as possible. The Constitution, however, does not explicitly authorize such an election, and any attempt to convene a Parliament that had fewer than its complete membership of 205 elected would undoubtedly face a challenge in the Supreme Court. Nor would people likely accept results from an election held only in fortified district headquarters, according to former MPs representing four different political parties. Such limited polling would constitute a travesty, one commented, and could never be characterized as full, free, fair, or an accurate reflection of the will of the Nepali people.

19. (SBU) If the elections are held, as expected, in phases, polling could take as long as six months. Many observers anticipate that degraded security conditions in the Maoist heartland will make voting outside of district headquarters virtually impossible, possibly necessitating the repeated postponement of polling there. Although the Constitution sets no limit on the time by which elections must have taken place, many observers fear that protracted polling--and the predictable public discontent that would likely accompany it--could set the stage for activation of the Constitution's ambiguously-worded Clause 127, granting the King the power to "issue necessary Orders" to "remove (any) difficulty" arising in the implementation of the Constitution. The vague wording of the Clause gives the King broad scope to undertake any action he deems likely to "remove such difficulty," from the continued postponement of elections to the appointment of an interim government.

10. (C) Many political and business sources, clearly anticipating that stalled elections will necessitate some form of Palace intervention, have floated a variety of theoretical scenarios for such action, ranging from the sublime (the King calls a Constitutional convention; Maoists participate; the Constitution is amended; Maoists come into political mainstream; free and fair elections are held) to the ridiculous (the King reinstates absolute monarchy). One businessman suggested the King could name a caretaker government headed by Deuba, appoint a technocrat Cabinet, and use the interim before elections to restore good governance, root out corruption, and crack down on the insurgency.

COMMENT

11. (C) Despite the Prime Minister's upbeat assessment of election prospects, we share many of our interlocutors' reservations about the Government's ability to hold free, fair, and credible elections on time, given the threat posed by Maoist insurgents in virtually every district of the country. This is not, unfortunately, a problem that can be ameliorated by international observers, donor-funded voter education programs, or any of the usual battery of assistance friendly democracies usually bring to the table. Continued postponement of the elections or any attempt to hold polling in only selected parts of the country would doubtless result in protracted Court challenges to the validity of the voting and the legitimacy of any government so elected. The Nepali Congress political shenanigans that caused the Prime Minister to dissolve Parliament have pushed Nepal into a situation from which there is no graceful or easy exit.

MALINOWSKI